

Creditable/Non Creditable Coverage Notice Requirements – Reminder

Plan sponsors are required to provide an annual Creditable/Non Creditable Coverage Notice (the "Notice") to all Medicare Eligible individuals covered under the group medical plan. Participants need this Notice so they can make their decision, based on the "Creditable Coverage" status of the employer sponsored group health plan, about whether to enroll or not in Medicare Part D.

The Notice for the 2009 plan year must be issued by November 15, 2008.

Please note that the CMS Creditable Coverage Notice was updated effective June 15, 2008. We have attached the new Notice for your use. Spanish and personalized versions of the Notice are also available on the CMS website, which can be accessed utilizing the following link:

<http://www.cms.hhs.gov/creditablecoverage>

We also have 2 reminders, for your consideration:

1. Participants "eligible for Medicare" can include:

- Active employees and/or their spouses that are over age 65
- Covered retirees and/or their spouses over age 65
- Medicare-eligible disabled participants
- Medicare-eligible disabled participants (due to end stage renal disease)

While it is probably fairly simple to determine the Medicare eligibility status of the active and/or retiree population, plan sponsors should also realize that the group plan may cover dependents eligible for Medicare due to age, disability or other status.

To ensure 100% compliance, we are advising our clients to release the Notice by November 15, 2008 to all covered members enrolled in the group medical plans, including all active, COBRA and retired participants.

2. In addition to releasing a Notice by November 15th, the Notice must also be provided at the following five times:

1. Prior to the individual's initial enrollment period for Medicare Part D
2. Prior to the annual Medicare Part D enrollment period (November 15 – December 31) of each year.
3. Prior to the effective date of coverage for any Medicare eligible individual who joins the employer's plan
4. Whenever prescription drug coverage ends or changes so that it is no longer creditable or becomes creditable and
5. Upon request.

Issuing the Notice before November 15 this year, to all plan participants, will ensure you have met the requirements illustrated in 1 and 2.

As to the remainder of the requirements, it is important to note that the phrase "prior to" means that the notice must have been provided within the past twelve months. Based on that, we are advising clients to also include the Notice in their annual open enrollment packages, as well as in their new hire kits on an ongoing basis. This ensures compliance with items 3 and 4 above.

C.M. Smith Agency, Inc. is not a law firm and therefore we are not able to give legal advice. You should consult with legal counsel if you have specific questions on this subject matter.